

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DANIEL S. GREEN,)	
)	
Plaintiff,)	
)	
v.)	Civ. No. 05-549-KAJ
)	
RADCLIFFE CHARLES,)	
BRADFORD APA, LYLE)	
BRYANT, HORACE DUGGINS,)	
CPL. WILLIAMS, and CPL.)	
DANELLI,)	
)	
Defendants.)	

ORDER

Daniel S. Green ("Green"), an inmate in the custody of the Delaware Department of Corrections, brings this lawsuit pursuant to 42 U.S.C. § 1983. He appears *pro se* and was granted permission to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915. (D.I. 3.) On February 1, 2006, I entered an order dismissing defendants Radcliffe Charles, Bradford Apa, Lyle Bryant, and Horace Duggins, but giving Green leave to amend his complaint within 30 days from the date of the order. (D.I. 10.) The other two defendants, Cpl. Williams and Cpl. Danelli, remained as defendants.

Green timely filed a motion to amend his complaint. (D.I. 11.) In the motion and its attachments he provided clarification that QRT is the acronym for "Quick Response Team". He also clarified that Radcliffe Charles, Bradford Apa, Lyle Bryant, and Horace Duggins are members of the QRT. Therefore, I am granting Green's motion to amend his complaint.

IT IS THEREFORE ORDERED as follows:

1. The motion to amend complaint (D.I.11) is GRANTED.

2. Green has raised what appear at this point to be cognizable Eighth Amendment claims for excessive force. He is allowed to PROCEED with those claims against the named defendants.

IT IS FURTHER ORDERED that:

1. The clerk of the court shall cause a copy of this order to be mailed to the plaintiff.

2. Pursuant to Fed. R. Civ. P. 4(c)(2) and (d)(2), plaintiff Daniel S. Green, has completed and returned to the Clerk of the Court an **original "U.S. Marshal-285"** form for **the defendants**, as well as for the Attorney General of the State of Delaware, 820 N. FRENCH STREET, WILMINGTON, DELAWARE, 19801, pursuant to DEL. CODE ANN. tit. 10 § 3103(c). **Additionally, Green has provided the Court with one copy of the complaint (D.I. 2) for service upon each defendant. Before service can be effected, however, Green shall also provide to the Court one copy of the amended complaint (D.I. 11) for service upon each defendant. Green is notified that the United States Marshal will not serve the complaint and amended complaint until all documents have been received by the Clerk of the Court. Failure to provide copies of the amended complaint for service upon each defendant and the attorney general within 120 days of this order may result in the complaint being dismissed or defendants being dismissed pursuant to Federal Rule of Civil Procedure 4(m).**

3. Upon receipt of the form(s) required by paragraph 2 above, the United

States Marshal shall forthwith serve a copy of the complaint (D.I. 2) and the amended complaint (D.I. 11), this order, a "Notice of Lawsuit" form, the filing fee order(s), and a "Return of Waiver" form upon each of the defendants so identified in each 285 form.


4. Within **thirty (30) days** from the date that the "Notice of Lawsuit" and "Return of Waiver" forms are sent, if an executed "Waiver of Service of Summons" form has not been received from a defendant, the United States Marshal shall personally serve said defendant(s) pursuant to Fed. R. Civ. P. 4(c)(2) and said defendant(s) shall be required to bear the cost related to such service, unless good cause is shown for failure to sign and return the waiver.

5. Pursuant to Fed. R. Civ. P. 4(d)(3), a defendant who, before being served with process timely returns a waiver as requested, is required to answer or otherwise respond to the complaint within **sixty (60) days** from the date upon which the complaint, this order, the "Notice of Lawsuit" form, and the "Return of Waiver" form are sent. If a defendant responds by way of a motion, said motion shall be accompanied by a brief or a memorandum of points and authorities and any supporting affidavits.

6. No communication, including pleadings, briefs, statement of position, etc., will be considered by the Court in this civil action unless the documents reflect proof of service upon the parties or their counsel.

7. **NOTE: ***** When an amended complaint is filed prior to service, the Court will **VACATE** all previous Service Orders entered, and service **will not take place**. An amended complaint filed prior to service shall be subject to re-screening pursuant to 28 U.S.C. §1915(e)(2) and § 1915A(a). *******

8. **NOTE: ***** Discovery motions and motions for appointment of counsel filed prior to service will be dismissed without prejudice, with leave to refile following service. ***


UNITED STATES DISTRICT JUDGE

March 6, 2006
Wilmington, Delaware